

**From:** (b) (6)  
**To:** [Capacasa, Jon](#)  
**Cc:** [Mccarthy, Gina](#); [Garvin, Shawn](#); [McGuigan, David](#); [Gleason, Patricia](#)  
**Subject:** EPA Response to my Formal Complaint Associated with NPDES Permit# DE0000736  
**Date:** Tuesday, March 25, 2014 11:40:51 AM

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March 25, 2014

Mr. Jon Capacasa

EPA – Water Protection Division

Region III – Philadelphia, PA.

Re: EPA Response to my Formal Complaint Associated with NPDES Permit# DE0000736

Mr. Capacasa,

Unfortunately, statements made in your March 18, 2014 reply to my Formal Complaint require me to submit this additional response.

First, minor item, my name is (b) (6) not (b) (6).

I have received a number of responses from Environmental agencies in the past. I am aware that they never admit any guilt or any wrongdoing and they just provide excuses as to why the proper and required action on their part was never performed or implemented. Your March 18, 2014 was exactly that, a list of excuses. However, it is duly noted that the EPA in their response failed to refute or discredit any of the charges in my complaint regarding political tampering, discrimination by DNREC between Point Sources, special and unachievable offsets only offered to privileged Industrial sites, and so on. But, let's not lose the fact that the Pinnacle Permit has never met the 1998 Inland Bays TMDL requirements by "systematically eliminating" all discharge as originally required or by the establishment of credible and achievable Nutrient offsets to meet the TMDL requirements. This fact remains regardless of any and all EPA and DNREC excuses.

Regarding the statement in your March 18, 2014 response that says the Pinnacle permit has been "administratively extended and all its provisions are in effect". The permittee (Pinnacle) is clearly not meeting the permit requirements since the plant is abandoned, there is no ongoing groundwater remediation, no spray irrigation, no actual growing and harvesting of Reed Canary Grass, etc., how can this permit that expired in October, 2013 justifiably be extended? As we know, the permittee is legally required to meet the permit requirements not the actual discharge amounts. Therefore, we know that the actual discharge excuse cannot be used to justify the permit remaining open. If this NPDES Process contained any credibility or honesty at all, the permit would be terminated immediately to preclude further embarrassment on the part of EPA and DNREC.

I believe the EPA initially approved Water Quality Trading in 2003 and yet over 10 years later

there still are no standards from state to state. Until that happens, the Nutrient Trading game will be continually flawed and is no more than a paper Ponzi scheme and the Pinnacle Permit is a perfect example. I also think it's a shame that the handling of the Pinnacle permit and its misuse of Water Quality Trading and Nutrient offsets could not have been used in the lawsuit filed in 2012 by the Food & Water Watch group against the EPA that was basically dismissed in 2013 because it lacked an specific example in the Chesapeake watershed regarding the misuse of quality trading and Nutrient offsets and the failure to meet TMDL and CWA requirements.

The handling of the Pinnacle permit would have been a perfect example of how Water Quality and Nutrient Trading offsets are abused along with the permit's history of political tampering, discrimination between point sources, lack of Nutrient Trading standards, special offsets concocted to make it appear on paper like the site was meeting the TMDL requirements, lack of EPA oversight, and so on. I believe if Judge Rudolph Contreras of the U.S. District Court for the District of Columbia could have been provided the Pinnacle Permit story as part of that lawsuit, the Judge's decision might have been totally different. Well, there is always future litigation.

Mr. Capacasa, I see you are pushing me off on David McGuigan. Mr. McGuigan's failure to respond to 4 E-Mails in December, 2013 and January, 2014 and an uneventful conference call I believe in late January is what led me to go to the head of the EPA, Regina McCarthy. In addition, if I am not mistaken, Mr. McGuigan's group was most likely the one that had the responsibility to review and oversee the Pinnacle Permit when it was to be approved in 1998, 2003, 2008 and again 2013. Therefore, you can see my concern about any further involvement by Mr. McGuigan regarding the past Pinnacle Permit or the future Allen Harim permit if it comes to pass.

In closing, I will say this. It is always discouraging when the enemies of the environment turn out to be the environmental agencies that were established to protect it.

Thank you,

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